

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE
LITIGATION

) MDL No. 1456

) CIVIL ACTION: 01-CV-12257 PBS

THIS DOCUMENT RELATES TO
Master File No. 01-CV-12257-PBS

) Judge Patti B. Saris

) Chief Mag. Judge Marianne B. Bowler

STATUS REPORT DECEMBER 1, 2004

Pursuant to the Court's June 17, 2004 Procedural Order, the undersigned counsel for Plaintiffs and Defendants hereby submit the attached status report to the Court listing the status of all pending motions to date.

Respectfully Submitted,

PLAINTIFFS' LEAD COUNSEL
ON BEHALF OF ALL PLAINTIFFS

By /s/ Thomas M. Sobol

DATED: December 1, 2004

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CERTIFICATE OF SERVICE

I hereby certify that I, Thomas M. Sobol, an attorney, caused a true and correct copy of the foregoing Status Report to be served on all counsel of record electronically on December 1, 2004, pursuant to Section D of Case Management Order No. 2.

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MDL 1456 STATUS CHART – GOVERNMENT ENTITY CASES

| GOVERNMENT ENTITY CASES | MDL DOCKET NUMBER | ORIGINAL JURISDICTION | STATUS |
|--|-------------------|-----------------------|--|
| Montana v. Abbott Labs., Inc. et al. | 02-CV-12084-PBS | Removed to D. Mont. | <ul style="list-style-type: none"> September 10, 2004 – B. Braun of America Inc.’s Renewed Motion to Dismiss the State of Montana’s Second Amended Complaint <i>sub judice</i> <ul style="list-style-type: none"> September 24, 2004 – Plaintiff State of Montana’s Opposition to B. Braun of America Inc.’s Renewed Motion to Dismiss, including Cross-Motion for Stay Pending Resolution of Class Plaintiffs’ Motion to Compel B. Braun of America Inc. to Make Supplemental Rule 30(b)(6) Designation <i>sub judice</i> <ul style="list-style-type: none"> Cross-motion is now moot. September 30, 2004 – B. Braun of America Inc.’s Opposition to Montana’s Cross-Motion for Stay Pending Resolution of Class Plaintiffs’ Motion to Compel B. Braun of America Inc. to Make Supplemental 30(b)(6) Designation November 24, 2004 – Watson Pharmaceuticals, Inc.’s Motion to Dismiss the State of Montana’s Second Amended Complaint |
| Nevada v. American Home Products, Inc. et al (“Nevada II”) | 02-CV-12086-PBS | Removed to D. Nev. | <ul style="list-style-type: none"> November 24, 2004 – Watson Pharmaceuticals, Inc.’s Motion to Dismiss the State of Nevada’s Amended Complaint |
| California <i>ex rel.</i> Ven-A-Care of the Florida Keys, Inc. v. Abbott Labs., Inc. et al. | 03-CV-11226-PBS | Removed to C.D. Cal. | <ul style="list-style-type: none"> No pending motions |

| GOVERNMENT ENTITY CASES | MDL DOCKET NUMBER | ORIGINAL JURISDICTION | STATUS |
|--|-------------------|-----------------------|---|
| County of Suffolk v. Abbott Labs., Inc. et al. | 03-CV-10643-PBS | E.D.N.Y. | <ul style="list-style-type: none"> Certain Defendants' Motions to Dismiss Suffolk County's Amended Complaint <i>sub judice</i> <ul style="list-style-type: none"> October 26, 2004: Memorandum and Order dismissing Purdue Pharma L.P., Ivax Corporation, and Ivax Pharmaceuticals, Sanofi-Synthelabo Inc., and Aventis Pharmaceuticals Inc. and deferring ruling on individual motions to dismiss filed by the "Suffolk 13" and individually by certain other defendants, and ordering plaintiff to make disclosures and provide more definitive statement pursuant to Fed. R. Civ. P. 12(e). <ul style="list-style-type: none"> November 16, 2004 – Suffolk County's Affidavit of Aaron D. Hovan Providing (1) Methodology and Documents Used to Estimate AWP Spread and (2) Additional Information Regarding Defendants filed in Response to October 26, 2004 Order November 19, 2004 – GSK's Motion for Clarification of the Court's October 26, 2004 Ruling in the County of Suffolk Case November 22, 2004 – County of Suffolk's Response to GSK's Motion for Clarification November 30, 2004 – Individual and Joint Responses to Suffolk County's Supplemental Filing in Response to the Court's October 26, 2004 Order November 24, 2004 – County of Suffolk's Motion to Compel the Production of Electronic Discovery from the Schering Plough Defendants |
| County of Rockland v. Abbott Labs., Inc. et al. | 03-CV-12347-PBS | S.D.N.Y. | <ul style="list-style-type: none"> No Pending Motions Stipulation in place extending defendants' time to answer until 30 days after decision on motions to dismiss Suffolk County complaint |
| County of Westchester v. Abbott Labs., Inc. et al. | n/a | S.D.N.Y. | <ul style="list-style-type: none"> No Pending Motions Stipulation in place extending defendants' time to answer until 30 days after decision on motions to dismiss Suffolk County complaint |
| City of New York v. Abbott Labs., Inc. et al. | n/a | S.D.N.Y.> | <ul style="list-style-type: none"> September 24, 2004 – Conditional transfer order issued by Judicial Panel on Multidistrict Litigation; no opposition filed. |

MDL 1456 STATUS CHART – PRIVATE CLASS CASES

| PRIVATE CLASS CASES | MDL DOCKET NO. | ORIGINAL JURISDICTION | STATUS |
|---|--------------------------------|------------------------------------|--|
| Master Consolidated Class Action | Master File 01-CV-12257-PBS | D. Mass. pursuant to JPML Order | <ul style="list-style-type: none"> • April 27, 2004 – Plaintiff Suffolk County’s Motion Respecting Coordinated Discovery <i>sub judice</i> <ul style="list-style-type: none"> ○ May 11, 2003 – Response of Liaison Counsel to Suffolk County’s Motion Respecting Coordinated Discovery ○ May 24, 2004 – Plaintiff Suffolk County’s Reply on Motion Respecting Coordinated Discovery ○ May 26, 2004 – Plaintiffs’ Motion to File A Surreply In Opposition to Suffolk County’s Reply on Motion Respecting Coordinating Discovery; Liaison and Plaintiff Counsels’ Surreply to Suffolk County’s Reply on Motion Respecting Coordinated Discovery ○ May 28, 2004 – Memorandum of Bristol-Myers Squibb Company in Response To The Motion Of County Of Suffolk Addressing The Role Of Liaison Counsel For All Plaintiffs ○ May 28, 2004 – Response of Liaison Counsel to BMS Memorandum Addressing the Role of Liaison Counsel ○ June 22, 2004 – Order Granting Plaintiffs’ Motion for Leave to File a Surreply in Opposition to Suffolk County’s Reply on Motion Respecting Coordinating Discovery • May 3, 2004 – Plaintiffs’ Motion to Compel The Production of Documents Created During the Relevant Time Period from Defendants Abbott Laboratories, Astrazeneca, Schering Plough, Sicor and Together Rx Defendants <i>sub judice</i> (Magistrate Bowler) <ul style="list-style-type: none"> ○ May 17, 2004 – Certain Defendants’ Notice of Opposition to Plaintiffs’ Motion to Compel the Production of Certain Documents and Consent Motion for an Extension of Time ○ May 26, 2004 – Notice of Withdrawal of Plaintiffs’ Motion to Compel the Production of Documents Created During the Relevant Time Period Directed at Defendant Schering-Plough (<i>Note: withdrawal applies only to Schering-Plough</i>) ○ May 27, 2004 – Consent Motion for an Extension of Time to Oppose the Motion to Compel ○ May 27, 2004 – Opposition of the Together Rx Defendants to Plaintiffs’ Motion to Compel the Production of Documents ○ May 28, 2004 – Notice Of Withdrawal Of Plaintiffs’ Motion To Compel The Production Of Documents Created During The Relevant Time Period Directed At Defendant Abbott Laboratories |

| PRIVATE CLASS CASES | MDL DOCKET NO. | ORIGINAL JURISDICTION | STATUS |
|---|----------------|-----------------------|---|
| Master Consolidated Class Action (continued) | | | <p><i>(Note: withdrawal applies only to Abbott Laboratories)</i></p> <ul style="list-style-type: none"> ○ June 8, 2004 – Notice of Withdrawal of Plaintiffs’ Motion to Compel the Production of Documents Created During the Relevant Time Period Directed at Defendant AstraZeneca. <i>(Note: withdrawal applies only to AstraZeneca)</i> ○ June 9, 2004 – Plaintiffs’ Reply Memorandum In Support of Motion To Compel The Production of Documents Created During The Relevant Time Period From The Together Rx Defendants ○ June 22, 2004 – Order granting Plaintiffs’ Motion to Withdraw Motion to Compel Directed at Abbott Laboratories ○ June 22, 2004 – Order granting AstraZeneca’s Assented to Motion for Extension of Time to File Response to Plaintiffs’ Motion to Compel ○ June 22, 2004 – Order finding as Moot AstraZeneca’s Motion for Extension of Time to Oppose Plaintiffs’ Motion to Compel ○ Awaiting scheduling of hearing or ruling by Court as to Together Rx Defendants. <ul style="list-style-type: none"> • July 26, 2004 – Amgen Motion to Dismiss Corrected AMCC <i>sub judice</i> <ul style="list-style-type: none"> ○ August 9, 2004 – Plaintiffs’ Opposition to Amgen Motion to Dismiss Corrected AMCC ○ August 31, 2004 – Amgen’s Reply In Support of Motion to Dismiss Plaintiffs’ Corrected AMCC • August 24, 2004 – Plaintiffs’ Motion to Add B. Braun Medical, Inc. as a Defendant <i>sub judice</i> <ul style="list-style-type: none"> ○ September 10, 2004 – B. Braun of America Inc.’s Opposition to Plaintiffs’ Motion to Add B. Braun Medical Inc. as a Defendant ○ September 21, 2004 – Plaintiffs’ Motion for Leave to File Reply Brief in Support of Motion to Add B. Braun Medical, Inc. as a Defendant and accompanying Reply • September 3, 2004 – Plaintiffs’ Motion for Class Certification <ul style="list-style-type: none"> ○ October 25, 2004 – Track 1 Defendants’ Consolidated and Individual Opposition to Plaintiffs’ Motion for Class Certification, with supporting declarations and exhibits. • September 10, 2004 – B. Braun of America Inc.’s Renewed Motion to Dismiss the Amended Master Consolidated Class Action Complaint <i>sub</i> |

| PRIVATE CLASS CASES | MDL DOCKET NO. | ORIGINAL JURISDICTION | STATUS |
|---|----------------|-----------------------|--|
| Master Consolidated Class Action (continued) | | | <p><i>judice</i></p> <ul style="list-style-type: none"> ○ September 24, 2004 – Plaintiffs’ Response in Opposition to B. Braun of America’s Renewed Motion to Dismiss the Amended Master Consolidated Complaint and Cross-Motion for Stay Pending Resolution of Plaintiffs’ Motion to Compel B. Braun of America Inc. to Make Supplemental 30(b)(6) Designation <i>sub judice</i> <ul style="list-style-type: none"> ▪ Cross-motion is now moot. ○ September 30, 2004 – B. Braun of America Inc.’s Opposition to Plaintiffs’ Cross-Motion for Stay Pending Resolution of Plaintiffs’ Motion to Compel B. Braun of America Inc. to Make Supplemental 30(b)(6) Designation <ul style="list-style-type: none"> • October 1, 2004 – Plaintiffs’ Motion to Compel Production of Defendants’ Correspondence with Putative Class Members <i>sub judice</i> (Magistrate Bowler) <ul style="list-style-type: none"> ○ October 18, 2004 – Defendants’ Memorandum in Opposition to Plaintiffs’ Motion to Compel Production of Defendants’ Correspondence with Putative Class Members ○ November 2, 2004 – Motion Denied by Court <ul style="list-style-type: none"> ▪ November 10, 2004 – Plaintiffs’ Objection to Order Denying Motion to Compel ▪ November 24, 2004 – Defendants’ Memorandum in Opposition to Plaintiffs’ Objection to Order Denying Motion to Compel • October 25, 2004 – Motion to Strike the Declaration of Raymond S. Hartman <ul style="list-style-type: none"> ○ October 25, 2004 – Memorandum in Support of Motion to Strike the Declaration of Raymond S. Hartman ○ November 12, 2004 – Joint Motion to Extend Time for Opposition to Defendants’ Motion to Strike Declaration of Raymond Hartman ○ November 30, 2004 – Track 1 Defendants’ Motion to Strike the Declaration of Raymond S. Hartman • November 2, 2004 – Joint Motion for Amended Protective Order • November 8, 2004 – Unopposed Motion for Amendment of November 2, 2004 Electronic Order |

| PRIVATE CLASS CASES | MDL DOCKET NO. | ORIGINAL JURISDICTION | STATUS |
|--|-----------------|-----------------------|--|
| Master Consolidated Class Action (continued) | | | <ul style="list-style-type: none"> November 17, 2004 – Defendants’ Motion to Compel Third Party Health Net Inc. to Produce Documents pursuant to Subpoena |
| Congress of California Seniors v. Abbott Labs., Inc. et al. | 03-CV-10216-PBS | Removed to C.D. Cal. | <ul style="list-style-type: none"> Consolidated into Master Class Action |
| International Union of Operating Engineers, Local No. 68 Welfare Fund v. AstraZeneca PLC et al. | n/a | Removed to D.N.J. | <ul style="list-style-type: none"> Motion to Remand filed in District of New Jersey prior to transfer; briefed while pending in District of New Jersey |